

**IN THE WAITANGI TRIBUNAL  
OF NEW ZEALAND**

**WAI**

**IN THE MATTER** of the Treaty of Waitangi Act 1975

**A N D**

**IN THE MATTER** of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

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**BRIEF OF EVIDENCE OF CHARLIE TAWHIAO**

**Dated this 14<sup>th</sup> day of March 2017**

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**p** 09 404 0953  
**a** 91 Hupara Road, RD2 Kaikohe, Northland 0472  
**e** [admin@tukaulaw.co.nz](mailto:admin@tukaulaw.co.nz)  
**w** [www.tukaulaw.co.nz](http://www.tukaulaw.co.nz)

**Solicitors acting**

**Season-Mary Downs  
Heather Jamieson  
Chelsea Terei**

**MAY IT PLEASE THE TRIBUNAL:**

Ko Mauao te Maunga  
Ko Tauranga te Moana  
Ko Matakana te Moutere  
Ko Ngai Te Rangi te Iwi

**Introduction**

1. My name is Charlie Tawhiao. I am Ngai Te Rangi.
2. I am the Chairperson of Te Runanga o Ngai Te Rangi Trust, having been elected to that role in 2009.
3. I am also the Chairperson of the Ngai Te Rangi Settlement Trust, having been elected to that role in 2013.
4. As Chairperson of Te Runanga o Ngai Te Rangi Trust, I led Ngai Te Rangi iwi through our Te Tiriti o Waitangi settlement negotiations process, which is now nearing its conclusion.
5. The Ngai Te Rangi Settlement Trust was established to receive and manage settlement redress on behalf of Ngai Te Rangi.
6. I provide this evidence in support of the application for an urgent Tribunal inquiry into the Crown's settlement negotiations policy and practice concerning the redress in our rohe that Hauraki seeks as part of their historical settlement with the Crown.
7. Ngai Te Rangi strongly object to the Pare Hauraki Collective Redress Deed, which was initialled on 22 December 2016 (**Appendix C**).

**Tauranga Moana, Tauranga Tangata**

8. The primary mission of the two Ngai Te Rangi Boards that I chair is to ensure that the mana of Ngai Te Rangi is upheld. It is our job to protect and promote our existence as a cultural entity so that in the process of

receiving and managing our Treaty settlement assets we never lose sight of who we are, where we stand, and what we stand for.

9. This mission is important because of the impact that colonisation has had on our people in terms of threatening our existence as Ngai Te Rangi. We can never rest in the battle to maintain our identity and our right to be, whether the threats to our identity come from within, from our neighbouring iwi, or from our Te Tiriti partner.
10. Therefore, the intention signalled by our Te Tiriti partner to provide Treaty settlement redress to Hauraki Iwi Collective, as well as to individual iwi of Hauraki, has been received by Ngai Te Rangi as a direct attack on our identity and on our mana as an iwi.
11. For that reason, we must respond vigorously, both for the sake of the future generations of Ngai Te Rangi, and for our tipuna who shed blood to ensure that we could stand proudly as Ngai Te Rangi in Tauranga Moana and truly say “Tauranga Moana, Tauranga Tangata”.
12. That expression is more than simply a slogan, it is a statement of identity which we must protect as much as we must protect our identity. To be asked to accept that Tauranga Moana Tauranga Tangata now includes iwi other than those who have traditionally exercised rangatiratanga in Tauranga Moana, makes a mockery of our history.
13. On this basis, we reject all claims by Hauraki iwi to any rights akin to mana moana or mana whenua in Tauranga Moana.
14. We do, however, acknowledge that we have a history with our neighbouring hapu and iwi which defines us and them, and which is evidenced today in the relationships that have endured beyond the battles and warfare.

### **The Pare Hauraki Collective Redress Deed**

15. We have been concerned for a significant period of time about the Crown’s proposal to assign rights to Hauraki Iwi Collective in Tauranga Moana.

16. In order to resolve this, we sought to engage with Hauraki and we also asked the Crown to disclose details of the redress they proposed to provide to Hauraki in respect of Tauranga Moana.
17. On 20 December 2016, we finally received some information from the Crown, together with notice that the Crown intended to initial the Hauraki Iwi Collective and Marutuahu Deeds of Settlement on 22 December 2016.
18. The information received from the Crown raised a number of issues, and there are key redress items that we were only able to review for the first time the day before the initialling took place.
19. Two key items of concern were:
  - (a) The Tauranga Moana Framework drafting which includes statements that are completely inaccurate and unjustified; and
  - (b) The MPI protocol and a coastal statutory acknowledgement that encompasses our heartlands, including Matakana Island and Mauao.
20. The Crown is disrespecting the mana, rangatiratanga and tikanga of Ngai Te Rangi by:
  - (a) Offering this redress to Hauraki;
  - (b) Refusing to provide us with sufficient time to:
    - (i) Receive, review, and respond to the redress; and
    - (ii) Properly resolve the issues.
21. We requested that the Crown postpone the initialling or remove this redress from their settlement.
22. We conveyed to the Crown our opposition to the inclusion of Tauranga Moana in the Hauraki Iwi Collective redress, and to the initialling of their Deed of Settlement (see **Appendix D**).
23. The Crown simply ignored our objections.

24. If this settlement proceeds in its present form, the Hauraki Iwi Collective will have gained a permanent foothold in our heartlands.
25. Our people have been very clear about their absolute opposition to allowing any other iwi into our rohe, and are aggrieved that a potential loss of the Tauranga Moana Framework may be the consequence of our position.

### **The Crown's failures**

26. Until recently, we were reasonably assured that a practical solution could be found with the Crown. The Minister and his officials acknowledged and sympathised with our concerns, but maintained that their hands were bound by a prior Waitangi Tribunal decision that had confirmed that Hauraki had cultural and historical interests in Tauranga Moana.
27. Given the nature of the Tribunal's findings, we were surprised by the manner in which the Crown then chose to recognise those Hauraki 'interests' by elevating them to the status of 'rights' akin to mana whenua.
28. As mentioned, we had been requesting information from OTS on the Hauraki redress package for months, and we are extremely frustrated that the full extent of this information was only provided shortly before the deeds were initialled, with notice that the Crown intended to proceed with the initialling.
29. The delayed trickle of information from OTS outlining redress that is being offered to the Hauraki Iwi Collective and individual Hauraki iwi, together with short response deadlines, has been unfair.
30. We are outraged by the redress itself, but also that the Crown went ahead with the deeds when no engagement had occurred with us on such significant matters.
31. We presently see the Crown as the central cause of this unrest between ourselves and Hauraki.

32. In its haste to settle claims, the Crown has diminished the place of tikanga in their deliberations, choosing instead to focus solely on expediting settlements.

**The prejudicial effect**

33. In ignoring tikanga, the Crown has undermined the very outcome it (and iwi) seeks to achieve; sustainable and durable Treaty of Waitangi settlements.
34. Ngai Te Rangi are presently so incensed by the Crown's approach to addressing overlapping interests that we would prefer no settlement to having a settlement that compromises our mana whenua and mana moana in Tauranga Moana.
35. Our rangatiratanga is being displaced, and our whenua and moana are being confiscated again by the Crown to settle its debt to iwi who have no practical claim to our rohe. That is a return to raupatu.
36. If the Hauraki Iwi Collective settlement proceeds in its present form (wherein redress is provided in Tauranga Moana that accords mana whenua/mana moana status to Hauraki), it would be of such offense to Ngai Te Rangi that we would have no option but to pursue a claim with the Waitangi Tribunal seeking to stop the Hauraki Iwi Collective settlement from proceeding until our concerns have been properly addressed by the Crown.
37. If we do proceed down the Waitangi Tribunal path, there will be consequences, including further delays to the passing of our Bill in Parliament. However, we consider this matter to be of such importance that delaying our settlement is preferable to allowing the Crown to enable outside iwi to encroach into our moana.
38. We believe that Hauraki must receive a fair settlement from the Crown and we are willing to support them in achieving that. However, we do not agree that Tauranga Moana should be included in that settlement in any way.

### **Pathways forward**

39. This matter is best resolved by the affected iwi (Tauranga Moana iwi and Hauraki iwi) without the influence or intrusion of the Crown's Treaty Settlement imperatives.
40. In order for that to happen, the Crown would need to level the playing field so that our own traditional processes are able to be applied so that a tikanga based solution can be found.
41. There should be no time limit put on this process other than any time limit that the iwi may mutually agree to.
42. Our tupuna were willing to enter into pragmatic solutions to such stand-offs in the past, and we should be encouraged by their example.

### **Concluding remarks**

43. Redress offered to Hauraki has completely ignored the reality of occupation that existed at 1840 through to the present.
44. According iwi other than Tauranga Moana iwi (i.e. Ngati Ranginui, Ngati Ngai Te Rangi and Pukenga) rights akin to mana whenua within the rohe of Tauranga Moana is a direct assault on the mana, rangatiratanga and tikanga of Ngai Te Rangi.
45. In order for any iwi to hold mana and rangatiratanga, it is necessary not only to make the assertion, but to evidence how that assertion is, and has been demonstrated over time. We have had the assertion of mana and rangatiratanga within Tauranga Moana made by a number of outside iwi, but none have been able to show us how that mana and rangatiratanga is practically exercised.
46. None of these outside iwi are able to point to any practical or physical manifestation of an authoritative presence in Tauranga Moana, including obvious symbols such as marae. They have instead relied on historical korero that links them to this place in ancient times; korero that has long since been displaced by subsequent occupations.

47. We do not dispute these ancient connections, and indeed they are integrated into our own historical accounts of our relationships with neighbouring iwi. However, we do not accept these accounts as warranting rights akin to mana whenua and mana moana through contemporary Crown settlement processes.

**DATED** this 14<sup>th</sup> day of March 2017



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**Charlie Tawhiao**